

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

ANTHONY LEROY DAVIS,

Plaintiff,

v.

CASE NO. 16-3120-SAC-DJW

SAMUEL COLEMAN, et al.,

Defendants.

ORDER

This matter is before the Court on Plaintiff's Motion for Leave to Appeal In Forma Pauperis (Doc. 26). The Court dismissed this action on July 18, 2016, because Plaintiff is a three-strikes litigant and he failed to pay the full filing fee or show that he is in imminent danger of serious physical injury. (Docs. 7, 8.) On March 14, 2017, Plaintiff filed a "Motion for Declaratory Judgment" (Doc. 21). The Court denied the motion (Doc. 23) and Plaintiff filed a Notice of Appeal (Doc. 25).

The Court has considered Plaintiff's motion for leave to appeal *in forma pauperis* (Doc. 26) and denies this motion. In order to succeed on a motion to proceed IFP, the movant must show "the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues raised on appeal." *Rolland v. Primesource Staffing, LLC*, 497 F.3d 1077, 1079 (10th Cir. 2007). Plaintiff has not made this showing. The Court has examined Plaintiff's Notice of Appeal (Doc. 25) and re-examined the Order denying his motion for declaratory judgment (Doc. 23). The Court finds that Plaintiff has presented no non-frivolous factual or legal ground for appeal. The Court certifies that the appeal is not taken in good faith. *See* 28 U.S.C. § 1915(a)(3). Furthermore, because Plaintiff does not demonstrate that he is under an

“imminent danger of serious physical injury,” the “3-strikes” provision in § 1915(g) applies to bar Plaintiff from proceeding *in forma pauperis* on appeal.

IT IS THEREFORE ORDERED BY THE COURT that Plaintiff’s motion for leave to appeal *in forma pauperis* (Doc. 26) is **denied**.

IT IS SO ORDERED.

Dated on this 26th day of April, 2017, in Topeka, Kansas.

s/ Sam A. Crow
SAM A. CROW
U. S. Senior District Judge